



STATE BOARD OF EQUALIZATION

20 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 1799, SACRAMENTO, CALIFORNIA 95808)
(916) 445-6479

GEORGE R. REILLY
First District, San Francisco
ERNEST J. DRONENBURG, JR.
Second District, San Diego
WILLIAM M. BENNETT
Third District, San Rafael
RICHARD NEVINS
Fourth District, Pasadena
KENNETH CORY
Controller, Sacramento
DOUGLAS D. BELL
Executive Secretary

October 15, 1982

No. 82/118

TO COUNTY ASSESSORS, COUNTY COUNSELS,
ASSESSMENT APPEALS BOARDS, AND
OTHER INTERESTED PARTIES:

PROPERTY TAXES RULE 313

Enclosed is a notice of public hearing to be held Tuesday, December 7, 1982, at 2:00 p.m., in Room 102, 1020 N Street, Sacramento, California, on proposed amendments to property taxes rule 313, Hearing Procedure.

The rule is being amended to cause it to conform to California Constitution Article XIII A. Where appropriate, "full value" is being amended to "taxable value." Reference to Rule 305.5 is being deleted because it refers to an assessment notice that has since been eliminated from Rule 305.5 in conformance with California Constitution Article XIII A. Reference to the Office of Appraisal Appeals is being deleted from this rule because that office is no longer in existence.

The proposed amendments result from the Board's comprehensive review of the property taxes rules and from comments received from the California Assessors' Association and other interested parties. This review is being conducted under the provisions of State law which require that all rules meet statutory standards of necessity, authority, clarity, consistency and reference.

Written comments for the Board's consideration, requests to present testimony at the public hearing, or questions regarding the rule amendments should be directed to me at the above address.

Sincerely,

Janice Masterton
Assistant to Executive Secretary

JM:ms
Enclosure

NOTICE OF PROPOSED REGULATORY ACTION

BY THE

STATE BOARD OF EQUALIZATION

NOTICE IS HEREBY GIVEN that the State Board of Equalization, pursuant to the authority vested by Section 15606 of the Government Code, and to implement, interpret, or make specific Articles 1, 1.5, Chapter 1, Part 3, Division 1 and Sections 167 and 1609.4 of the Revenue and Taxation Code, proposes to amend Regulation 313 in Title 18 of the California Administrative Code, relating to property tax.

PUBLIC NOTICE: Notice is further given that a public hearing relevant to this action will be held in Room 102, Consumer Affairs Building, 1020 N Street, Sacramento, California, at 2:00 p.m., on December 7, 1982. Any person interested may present statements or arguments orally at that time and place.

INFORMATIVE DIGEST: This rule is being amended to cause it to conform to California Constitution Article XIII A. Where appropriate, "full value" is being amended to "taxable value". Reference to Rule 305.5 is being deleted because it refers to an

assessment notice that has since been eliminated from Rule 305.5 in conformance with California Constitution Article XIII A. Reference to the Office of Appraisal Appeals is being deleted from this rule because that office is no longer in existence.

ESTIMATE OF COST OR SAVINGS: The State Board of Equalization has determined that the proposed change does not impose a mandate on local agencies or school districts and will result in no direct or indirect cost or savings to any State, local, or Federal agency, school district, nor in Federal funding to the State.

INQUIRIES: Inquiries concerning this matter may be directed to Janice Masterton, at (916) 445-6479.

WRITTEN COMMENTS: Written statements or arguments will be considered by the Board if received by December 7, 1982; written statements or arguments are requested by November 17, 1982.

STATEMENT OF REASONS; EXPRESS TERMS: The Board has prepared a statement of the purpose of the proposed action and the information relied upon in making the change, and a ~~strikeout~~ and underscore version (express terms) of the proposed changes, both of which are available to the public upon request.

STAFF MEMORANDA AFTER PUBLIC HEARING OR
REVISIONS TO PUBLISHED VERSION OF THE REGULATION: In
the event there are any staff memoranda included in the
rule making file after the close of the public hearing
these memoranda will be available to the public upon
request from Mrs. Masterton for a period of 15 days
after the public hearing.

In the event there are any revisions to the
published version of the regulation, these revisions
will be available to the public from Mrs. Masterton for
a period of 15 days after the public hearing.

Following the hearing, the State Board of
Equalization, upon its own motion, or at the instance of
any interested person, may in accordance with law adopt
the changes proposed without further notice.

Dated: October 12, 1982

STATE BOARD OF EQUALIZATION

Douglas D. Bell

Douglas D. Bell
Executive Secretary

Rule 313. HEARING PROCEDURE.

Authority: Section 15606, Government Code

References: Articles 1, 15, Chapter 1, Part 3, Division 1, Revenue and Taxation Code.
Sections 167, 1609.4, Revenue and Taxation Code.

Hearings on applications shall proceed as follows:

(a) The clerk shall announce the number of the application and the name of the applicant. The chairman shall then determine if the applicant or his agent is present. If neither is present, the chairman shall ascertain whether the clerk has notified the applicant of the time and place of the hearing. If the notice has been given and neither the applicant nor his agent is present, the application shall be denied for lack of appearance, or, for good cause of which the board is timely informed, the board may postpone the hearing. If the notice has not been given, the hearing shall be postponed to a later date and the clerk directed to give proper notice thereof to the applicant.

(b) If the applicant or his agent is present the clerk shall announce the nature of the application, the assessed value as it appears on the local roll and the applicant's opinion of the ~~full~~ taxable value of the property.

(c) The chairman shall then require the applicant or his agent to present his case to the board, except when the hearing involves a penalty portion ~~of an assessment or an assessment for which the assessor has given notice pursuant to section 305.5.~~ If the applicant fails to present evidence of value of the property, the presumption set forth in section 321 (a) applies and the board shall not require the assessor to present his case.

(d) When a hearing involves the assessment of an owner-occupied single-family dwelling, and the applicant has complied with section 305 (c) and, if applicable, section 305.1, then the presumption in section 321 (b) applies. In such instances the chairman shall require the assessor to present appraisal data that supports the ~~full~~ taxable value he has determined for the property subject of the hearing.

(e) When a hearing involves a penalty portion of an assessment ~~or an assessment for which the assessor has given notice pursuant to section 305.5,~~ the assessor shall present his evidence notwithstanding the failure of the assessor or his agent to present evidence, to appear, or to request postponement of the hearing.

(f) All testimony shall be taken under oath or affirmation.

(g) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Failure to enter timely objection to evidence constitutes a waiver of the objection. The board may act only upon the basis of evidence properly admitted into the record. A full and fair hearing shall be accorded the application. There shall be reasonable opportunity for the presentation of evidence, for the cross-examination of all witnesses, for argument, and for rebuttal. ~~The board may not consider the findings and recommendation of the Chief of the Office of Appraisal Appeals or the order of the State Board of Equalization made with respect to property pursuant to section 1816.2 of the Revenue and Taxation Code.~~

(h) When the assessor requests the board find a higher assessed value than he placed on the roll and offers evidence to support the higher value, the chairman shall determine whether or not the assessor gave notice in writing to the applicant or his agent by personal delivery or by deposit in the United States mail directed to the address given on the application. If notice and a copy of the evidence offered has been supplied at least 10 days prior to the hearing the assessor may introduce such evidence at the hearing. The foregoing notice requirement shall not prohibit the board from a finding of a higher assessed value when it has not been requested by the assessor.

(i) Hearings shall be open except that

(1) Upon conclusion of the hearing, the board may take the matter under submission and deliberate in private in reaching a decision, and

(2) The board may grant a request by the applicant to close to the public a portion of the hearing relating to trade secrets. Such a request may be made by filing with the clerk a declaration under penalty of perjury that evidence is to be presented by the applicant which relates to trade secrets whose disclosure to the public will be detrimental to the business interests of the owner of the trade secrets. The declaration shall state the estimated time it will take to present the evidence. Only evidence relating to the trade secrets may be presented during the time the hearing is closed, and such evidence shall be confidential unless otherwise agreed by the applicant.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended October 4, 1967, effective October 5, 1967
Amended May 21, 1968, effective June 26, 1968.

ESTIMATE OF COST OR SAVINGS: The State Board of Equalization has determined that the proposed change does not impose a mandate on local agencies or school districts and will result in no direct or indirect cost or savings to any State, local, or Federal agency, school district, nor in Federal funding to the State.

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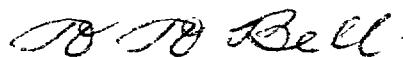
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Dated: October 12, 1982

STATE BOARD OF EQUALIZATION



Douglas D. Bell
Executive Secretary

BOARD OF EQUALIZATION
PROPERTY TAX DEPARTMENT

PROPERTY TAX RULES AND REGULATIONS

Chapter 1. State Board of Equalization - Property Tax.

Subchapter 11 Miscellaneous.

Authority: Section 15606, Government Code

Reference: ~~Part 12 of Division 4~~ Sections 5701, et seq., Revenue and Taxation Code

Rule No. 1045. (Cal. Adm. Code) Administration of the Annual Racehorse Tax.

The annual tax imposed by section 5721 of the Revenue and Taxation Code on the privilege of breeding, training, caring for, or racing racehorses in this state shall be administered as provided herein.

(a) ASSESSOR'S RESPONSIBILITIES

- (1) **SUBMISSION OF FORMS FOR BOARD APPROVAL** Annually on or before October 15 the assessor shall notify the board, on a form provided by the board, (1) of his intent to reproduce (a) the ANNUAL RACEHORSE TAX RETURN form and (b) the ANNUAL REPORT OF BOARDED RACEHORSES form by a photocopy process from the current prototype forms and instructions distributed by the board for use for the succeeding reporting period, or (2) of the forms and/or instructions which he will produce by means other than a photocopy of the prototype for use for that period, or (3) that he will have no need for the forms. When filing a notification that he will use a form and or instructions which he will produce by means other than a photocopy of the prototype, he shall submit to the board in duplicate for approval a draft copy of each such form and/or instructions. The copies shall be submitted together with the board-prescribed property statement forms required to be submitted by section 171 of this title. The provisions of section 171 relative to arrangement and variation of content of such property statement forms shall also be applicable to these forms.
- (2) **DISTRIBUTION OF FORMS AND RETENTION OF REPORTS.** Copies of the forms prescribed by the board for reporting the tax due and for reporting the names of persons whose racehorses are boarded with others shall be furnished by the assessor no later than December 15 prior to the calendar year in which the tax is due by mailing them to persons believed to be required to use them and by making them available at the assessor's office to any person requesting them.

The assessor shall maintain a record of those persons believed to be liable for the annual racehorse tax to whom he has furnished copies of the forms. A copy of the record shall be delivered to the tax collector within 10 days of the date when copies of the forms are furnished so that the tax collector can be cognizant of the taxpayers who can reasonably be expected to file returns.

The assessor shall retain his copy of all tax returns filed by taxpayers for a period of five years from the date the returns become due. They shall be arranged or identified so as to indicate whether or not an audit is required under subsection (3) of this rule.

Rule No. 1045. Administration of the Annual Racehorse Tax. (Continued)

- (3) **AUDITS.** The assessor shall audit the tax records relative to his county of any racehorse owner who, according to the assessor's records, had a gross tax liability (before addition of any penalties) that exceeds ~~\$1,000~~ \$2,000 for each of four consecutive calendar years. This audit shall be performed within five years of the date on which the annual racehorse tax first became due and shall include, but need not be limited to, a comparison of the annual racehorse tax return with records maintained by the taxpayer. The assessor, when performing an audit pursuant to this section of a taxpayer's records of racehorses taxable at a home ranch or other business location, shall also audit records of the same taxpayer pertaining to (1) personal property taxes on property having tax situs at the same location and (2) livestock taxable at the same location.

When an assessor schedules an audit of the records of any racehorse owner, whether as part of an audit required by section 192 ~~or section 1042~~ of this title or independently thereof, he shall advise the assessor of any other county in which racehorses of this taxpayer were taxable, as shown in the annual racehorse tax returns or in any other source, of the date on which the audit will be performed. Upon completion of the audit he shall make that portion of the audit findings relevant to the annual racehorse tax available to any such assessor. On discovery that horses escaped taxation, the assessor shall determine whether they were subject to the annual racehorse tax, were subject to the property tax, or were exempt and, if they were taxable, shall either provide the tax collector with copies of the audit workpapers so that a determination of additional racehorse tax due can be calculated or enroll an ad valorem assessment of escaped personal property.

Nothing herein shall be construed to prohibit the assessor from auditing the records of taxpayers for which audits are not required by this rule.

(b) TAX COLLECTOR.

The tax collector shall accept returns and payments, verify the mathematical accuracy of the tax returns and issue receipts upon request and for all cash payments. He shall forward to the assessor and to the auditor their respective copies of each return within 15 days of receipt.

The tax collector shall issue bills when his review of the tax return indicates additional tax due or when he has determined that additional tax is due under (a)(3) above. He shall also take such action as is appropriate to insure collection of taxes due his county. He shall inform the auditor and the tax collector of any other county of additional tax found to be due that county.

(c) AUDITOR.

The auditor will receive his copy of all tax returns filed in his county from the tax collector. He shall within 15 days of receipt transmit, in duplicate, to the auditors of other counties copies of returns which show tax liabilities in their respective counties. He will receive tax returns from the auditors of other counties and on receipt thereof shall forward copies of each return to both the assessor and the tax collector.

The auditor shall use the information on the forms to allocate taxes as prescribed in section ~~5801~~ 5790 of the Revenue and Taxation Code. Amounts due to other counties may be forwarded periodically rather than as received, but must under any method chosen be accompanied by information which will enable the auditor of the receiving county to make a proper allocation in his county.

(d) CLAIMS FOR REFUND.

Overpayments of this tax are subject to refund pursuant to the provisions of chapter 1 of part 3 of division 3.6 of title 1 (commencing with § 900) and chapter 4 of division 3 of title 3 (commencing with § 29700) of the Government Code.